UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2010*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　　1.☐ Certified copies of the priority documents have been received.

　　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   This office action is responsive to an APPEAL BRIEF filed August 23, 2010 for

application 10/575544.

Status of Claims

2.   Claims 1-16 were rejected in the last Office Action dated March 17, 2010.

As a response to the March 17, 2010 office action, Applicant has filed an appeal

brief.

To further clarify the record, this is a subsequent final office action using the

same prior art and same 102e grounds of rejection to show further examples of prior art

anticipation, such as the claimed "input means" anticipated by prior art "keypad button,"

as supported by applicant's specification, arguments, and dependent claims.

Claims 1-16 are now pending in this office action.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by
> another filed in the United States before the invention by the applicant for patent or (2) a patent
> granted on an application for patent by another filed in the United States before the invention by the
> applicant for patent, except that an international application filed under the treaty defined in section
> 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2)
> of such treaty in the English language.

4.   Claims 1-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Harding

(U.S. Publication Number: 2003/0114288).

As to independent claim 1, Harding discloses a control (e.g., controller 16) for a

machine for the manufacture of paper padding (e.g., cushioning conversion machine for

moving the paper material through the machine to create the dunnage material) (see

Paragraph [0037] and [0042]), wherein the machine comprises a drive motor (e.g., feed

motor 24) having a cutting device (e.g., cutting assembly 26) and a shaping device to

form a piece of padding (e.g., forming assembly 20) from a paper web and to cut it off

(e.g., cutting the dunnage product) in a desired length (e.g., desired length) (see

Paragraph [0046] and [0038]), comprising an input means (e.g., keypad button) to input

a desired length of padding (e.g., particular cut length) (see Paragraph [0046], [0077],

and [0081]);

a control unit (e.g., controller 16) (see Paragraph [0037]) having a memory to

control the drive motor in response to the input means (e.g., microprocessor 48

provides a signal to the feed motor through the feed motor port to feed material through

the machine for the appropriate length of time to provide dunnage of the length which

the operated selected from the keypad; processor 48 uses information to control the

gear assembly 22 and thus uses this information to control pad lengths as well as to

determine and store in non-volatile memory 230 the total length of pad produced) (see

Paragraph [0046], [0077], and [0081]),wherein an activation of the input means (e.g.,

control pad lengths) starts the drive motor and a deactivation of the input means triggers

a cutting procedure and stops the drive motor (e.g., activation/deactivation signals to the

feed motor) (see Paragraph [0046] and [0081]) so that the time period of the activation

of the input means corresponds to the length of padding produced (e.g., length of time

that equates to inches of dunnage material) (see Paragraph [0046]-[0049]), and wherein

the control unit (e.g., control pad lengths) (see Paragraphs [0046] and [0081])

automatically stores said length of padding produced in the memory on deactivation of

the input means (e.g., activation/deactivation signals to store in the non-volatile memory

the total length of pad produced) (see Paragraph [0081]) and makes it available for a

further call up upon momentary activation of said input means (e.g., paper usage as

well as other information stored in the non-volatile memory 230 may be made available

for display when desirable) (see Paragraph [0077]) such that the length of padding just

produced is automatically reproduced on request (e.g., microprocessor 48 then waits for

the next key on the keypad to be depressed and repeats the process to produce the

length of dunnage corresponding to the key depressed) (see Paragraph [0046]-[0049]).

As to independent claim 14, Harding discloses a machine for the manufacture

of paper padding (e.g., pads produced by machine) (see Paragraph [0071]), comprising:

a drive motor (e.g., feed motor 24) having a cutting device (e.g., cutting assembly

26) and a shaping device (e.g., forming assembly 20) to shape a piece of padding from

a paper web and to cut it off (e.g., cutting the dunnage product) in a desired length (e.g.,

desired length) (see Paragraph [0046] and [0038]); and

a control (e.g., controller 16) (see Paragraph [0037]) comprising:

an input means (e.g., keypad button) to input a desired length of padding

(e.g., particular cut length) (see Paragraph [0046], [0077], and [0081]);

a control unit (e.g., controller 16) (see Paragraph [0037]) having a memory

to control the drive motor in response to the input means (e.g., microprocessor

48 provides a signal to the feed motor through the feed motor port to feed

material through the machine for the appropriate length of time to provide

dunnage of the length which the operated selected from the keypad; processor

48 uses information to control the gear assembly 22 and thus uses this

information to control pad lengths as well as to determine and store in non-

volatile memory 230 the total length of pad produced) (see Paragraph [0046],

[0077], and [0081]), wherein an activation of the input means (e.g., control pad

lengths) starts the drive motor and a deactivation of the input means triggers a

cutting procedure and stops the drive motor (e.g., activation/deactivation signals

to the feed motor) (see Paragraph [0046] and [0081]) so that the time period of

the activation of the input means corresponds to the length of padding produced

(e.g., length of time that equates to inches of dunnage material) (see Paragraph

[0046]-[0049]), and wherein the control unit (e.g., control pad lengths) (see

Paragraphs [0046] and [0081]) automatically stores the length of padding

produced in the memory on deactivation of the input means (e.g.,

activation/deactivation signals to store in the non-volatile memory the total length

of pad produced) (see Paragraph [0081]) and makes it available for a further call

up upon momentary activation of said input means (e.g., paper usage as well as

other information stored in the non-volatile memory 230 may be made available

for display when desirable) (see Paragraph [0077]) such that the length of

padding just produced is automatically reproduced upon request (e.g.,

microprocessor 48 then waits for the next key on the keypad to be depressed

and repeats the process to produce the length of dunnage corresponding to the

key depressed) (see Paragraph [0046]-[0049]).

As to dependent claim 2, Harding teaches a control in accordance with claim 1,

wherein the stored length of padding can be called up by an actuation, in particular a

brief actuation, of the input means or of a further input means from the memory (e.g.,

paper usage as well as other information stored in the non-volatile memory 230 may be

made available for display when desirable) (see Paragraph [0077]), with the

manufacture of at least one further piece of padding being triggered automatically in the

called up length on the call up of the length of padding (e.g., length of pads) (see

Paragraph [0071] and [0086]).

As to dependent claim 3, Harding teaches a control in accordance with claim 1,

wherein the input means is an individual switch (e.g., foot switch) or push button (e.g.,

keypad buttons) (see Paragraph [0046] and [0053]); and

wherein an input pad (e.g., keypad) is provided in addition to the switch or push

button (e.g., foot switch) with which desired lengths of padding can be input into the

control and/or can be called up out of the control, with the manufacture of at least one

piece of padding being triggered automatically in the called up length on the call up of a

length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 4, Harding teaches a control in accordance with claim 3,

wherein it permits a directly sequential call up of a respective length of padding with the

switch or the push button (e.g., foot switch), on the one hand, and with the input pad

(e.g., keypad), on the other hand, without a further input means of the control having to

be actuated between these two call ups (see Paragraph [0046] and [0053]).

As to dependent claim 5, Harding teaches a control in accordance with claim 3,

wherein at least one additional switch or push button (e.g., foot switch; keypad buttons)

is provided on whose actuation a standard length of padding stored in the memory is

called up, with the manufacture of at least one piece of padding being triggered

automatically in the called up length on the call up of the length of padding (e.g., length

of each pad) (see Paragraph [0046] and [0053]).

As to dependent claim 6, Harding teaches a control in accordance with claim 1,

wherein a display device is provided (e.g., display; view in real-time) (see Paragraph

[0077], [0071] and [0013]); and

wherein, when the control is switched on for the first time, a standard length of

padding stored in the memory is displayed which can be called up by a further input

means (e.g., display 54) (see Paragraph [0077]), with the manufacture of at least one

piece of padding being triggered automatically in the called up length on the call up of

the length of padding (e.g., length of pads) (see Paragraph [0071] and [0086]).

As to dependent claim 7, Harding teaches a control in accordance with claim 1,

wherein it has a mode (e.g., mode selection switch 52) (see Paragraph [0045]) in which

a combination of the desired number and of the desired length of the pieces of padding

to be produced can be at least one of stored and called up (e.g., required number and

lengths of pads as determined by a look-up table) (see Paragraph [0086]).

    As to dependent claim 8, Harding teaches a control in accordance with claim 1, wherein an input means (e.g., keypad button) is provided with which a continuous manufacture of pieces of padding in the stored length of padding can be activated (e.g., length of each pad) (see Paragraph [0046]).

    As to dependent claim 9, Harding teaches a control in accordance with claim 3, wherein the individual switch or push button (e.g., foot switch), the input pad (e.g., keypad) and an input means (e.g., keypad button) for the activation of a continuous manufacture (see Paragraph [0046] and [0053]) are input means of equal priority for the call up of a length of padding, with the manufacture of at least one piece of padding being triggered automatically in the desired length on the call up of the length of padding (e.g., length of each pad) (see Paragraph [0046] and [0053]).

    As to dependent claim 10, Harding teaches a control in accordance with claim 1, wherein a selection switch (e.g., mode selection switch 52) is provided with which a plurality of memory locations can be selected in the memory in which a produced length of padding can be stored automatically, with the associated stored length of padding being produced in dependence on the position of the selection switch (e.g., mode selection switch 52), in particular on the activation of the input means (see Paragraph [0045]).

    As to dependent claim 11, Harding teaches a control in accordance with claim 10, wherein a further input means (e.g., foot switch; keypad buttons) is respectively associated with the plurality of memory locations to call up a length of padding stored at the respective memory location (see Paragraph [0046] and [0053]), with the

manufacture of at least one piece of padding being automatically triggered in the called

up length on the call up of the length of padding (e.g., length of each pad) (see

Paragraph [0046] and [0053]).

As to dependent claim 12, Harding teaches a control in accordance with claim

1, wherein a sensor is connected to it which detects the forthcoming end of the paper

web (e.g., lack of paper; presence or absence of dunnage) (see Paragraph [0090] and

[0047]); and

wherein the control generates a signal in response to the sensor which in

particular interrupts a further operation of the machine at least temporarily (e.g.,

machine become inactive) (see Paragraph [0090] and [0047]).

As to dependent claim 13, Harding teaches a control in accordance with claim

1, wherein it has a connector for an electromagnetic coupling of an auxiliary unit (e.g.,

electronic dispensing system), with the control controlling the drive motor differently in

dependence on whether the electromagnetic coupling is connected (e.g., mode

selection switch 52), with the control preferably automatically recognizing whether an

electromagnetic coupling is connected (e.g., electronic dispensing system) (see

Paragraph [0045] and [0047]).

As to dependent claim 15, Harding teaches a machine in accordance with claim

14, wherein the control is made as a separate operating part which is connected to the

machine via a cable, wherein a holder is in particular provided at the machine for the

releasable installation of the control (e.g., cable connection) (see Paragraph [0107]).

As to dependent claim 16, Harding teaches a machine in accordance with claim

14, wherein a bus system is provided for the transmission of the control signals from the

control to the machine (e.g., input bus 50) (see Paragraph [0053] and [0061]).

Response to Arguments

5.   Applicant's arguments filed August 23, 2010 have been fully considered. The

arguments are not persuasive and do not overcome the original art rejection. The

following are the Examiner's observations in regard thereto.

Examiner Note:

This is a subsequent final office action using the same prior art and same 102e grounds

of rejection to show further examples of prior art anticipation, such as the claimed "input

means" anticipated by prior art "keypad button," as supported by applicant's

specification, arguments, and dependent claims.

Applicant Argues:

The length of time that the input means or push button 18 is suppressed is directly
proportional to the length of paper padding produced. Thus, any variable length of paper
padding may be produced by the machine and control unit of the present invention
since the length of paper padding can be varied by simply varying the time of
depression of the input means 18.

Examiner Responds:

Examiner is not persuaded. See prior art Paragraph [0046] for "for example, if an

operator pushes button 12 on the keypad, and this button was preprogrammed to

correspond to a length of 12 inches, the microprocessor 48 will signal the feed motor 24

and turn the feed motor on for <u>a length of time that equates to</u> 12 <u>inches of</u>

dunnage material being fed out, and then the microprocessor will disable the

feed motor," an example of how the prior art clearly teaches the time period of the

activation of the input means corresponds to the length of padding produced, as

claimed. The claims as written, do not mention "the length of time of push button

suppression is directly proportional to the length of paper padding produced" or "varying

length of paper padding by varying the time of depression." The claims and only the

claims form the metes and bounds of the invention. Limitations appearing in applicant's

specification, drawings, or arguments but not recited in the claim are not read into the

claim. The Examiner has full latitude to interpret each claim in the broadest reasonable

sense. The specification or arguments is not the measure of the invention, limitations

contained therein cannot be read into the claims for the purpose of avoiding the prior

art; see In re Sprock, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968). Under such

considerations, because the claims do not specify "suppression" or "depression" the

prior art anticipates the claims as written.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

        A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Tejal J. Gami whose telephone number is (571) 270-

1035. The examiner can normally be reached on Monday-Friday.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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